

# Senate Study Bill 3211

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON KREIMAN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to public intoxication by using or consuming a  
2 controlled substance or by inhaling or consuming an inhalant  
3 and making a penalty applicable.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 6209SC 82  
6 jm/nh/14

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1 1 Section 1. Section 123.46, subsection 1, Code 2007, is  
1 2 amended by adding the following new paragraphs:  
1 3 NEW PARAGRAPH. bb. "Controlled substance" means any  
1 4 substance or compound listed in section 124.204 or 124.206.  
1 5 NEW PARAGRAPH. bc. "Inhalant" means any substance which,  
1 6 if inhaled, causes intoxication.  
1 7 Sec. 2. Section 123.46, Code 2007, is amended by adding  
1 8 the following new subsection:  
1 9 NEW SUBSECTION. 2A. A person shall not use or consume a  
1 10 controlled substance or intentionally inhale or consume an  
1 11 inhalant upon the public streets or highways. A person shall  
1 12 not use or consume a controlled substance or intentionally  
1 13 inhale or consume an inhalant in a public place. A person  
1 14 shall not be intoxicated by a controlled substance or by  
1 15 intentional inhalation or consumption of an inhalant in a  
1 16 public place. A person violating this subsection is guilty of  
1 17 a simple misdemeanor.  
1 18 Sec. 3. Section 123.46, subsection 3, Code 2007, is  
1 19 amended to read as follows:  
1 20 3. When a peace officer arrests a person on a charge of  
1 21 public intoxication under this section and intoxication by  
1 22 alcohol is alleged, the peace officer shall inform the person  
1 23 that the person may have a chemical test administered at the  
1 24 person's own expense. ~~If~~ However, if intoxication by alcohol  
1 25 is alleged, and a device approved by the commissioner of  
1 26 public safety for testing a sample of a person's breath to  
1 27 determine the person's blood alcohol concentration is  
1 28 available, that is the only test that need be offered the  
1 29 person arrested. If intoxication by a controlled substance or  
1 30 inhalant is alleged, the person shall be permitted to arrange  
1 31 for the providing of a urine or blood sample at the person's  
1 32 own expense for testing. In a prosecution for public  
1 33 intoxication, evidence of the results of ~~a~~ the chemical or  
1 34 other test performed under this subsection is admissible upon  
1 35 proof of a proper foundation. The percentage of alcohol  
2 1 present in a person's blood, breath, or urine established by  
2 2 the results of a chemical test performed within two hours  
2 3 after the person's arrest on a charge of public intoxication  
2 4 is presumed to be the percentage of alcohol present at the  
2 5 time of arrest.  
2 6 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
2 7 3, shall not apply to this Act.

### EXPLANATION

2 9 This bill relates to public intoxication by using or  
2 10 consuming a controlled substance or by inhaling or consuming  
2 11 an inhalant.  
2 12 The bill provides that a person shall not use or consume a  
2 13 controlled substance or intentionally inhale or consume an  
2 14 inhalant upon the public streets or highways. The bill also  
2 15 prohibits a person from using or consuming a controlled  
2 16 substance or intentionally inhaling or consuming an inhalant  
2 17 in a public place or being intoxicated by such a controlled

2 18 substance or inhalant in a public place.  
2 19     The bill defines "controlled substance" to mean any  
2 20 substance or compound listed in Code section 124.204 or  
2 21 124.206. The bill also defines "inhalant" to mean any  
2 22 substance which, if inhaled, causes intoxication.  
2 23     A person who violates the bill commits a simple  
2 24 misdemeanor. A simple misdemeanor is punishable by  
2 25 confinement for no more than 30 days or a fine of at least \$65  
2 26 but not more than \$625 or by both.  
2 27     The bill may include a state mandate as defined in Code  
2 28 section 25B.3. The bill makes inapplicable Code section  
2 29 25B.2, subsection 3, which would relieve a political  
2 30 subdivision from complying with a state mandate if funding for  
2 31 the cost of the state mandate is not provided or specified.  
2 32 Therefore, political subdivisions are required to comply with  
2 33 any state mandate included in the bill.  
2 34 LSB 6209SC 82  
2 35 jm/nh/14